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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by the Andean Commission of Jurists, a non-governmental organization in consultative status (Category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 February 1993]

CIVIL DEFENCE FORCES AND INTERNAL DISPLACEMENT IN THE ANDEAN REGION

1. We wish to draw attention to two phenomena that form part of the complex situation of political violence confronting a number of countries in the Andean region in the light of the disquieting proportions which those phenomena have been acquiring in recent years. One is the emergence of civil defence groups, the formation of which appears to be on the increase worldwide, particularly in areas of conflict, as is underscored by the latest report of the Working Group on Enforced or Involuntary Disappearances. The other is the internal displacement of hundreds of thousands of individuals who flee from regions devastated by the violence and survive in subhuman conditions, usually on the fringes of towns.

2. With regard to the civil defence groups, we should point out that in Peru civil defence units, known as self-defence committees or civil defence committees, have emerged in recent years in the context of the internal war being waged in that country; they are making their presence felt increasingly in rural areas where they act on the orders of the armed forces and under the protection of legislation which promotes their formation.

3. The emergence of these civil defence groups can be explained by the difficulties experienced by the Peruvian State in guaranteeing adequate protection to the life, personal integrity and property of the civilian population established over extensive areas, especially in zones where there is a state of emergency and in which Shining Path's criminal activities constantly harass the peasant communities and cause numerous casualties among inhabitants not involved in the confilct. This same situation in effect gives rise to the large-scale exodus of these persons to the towns, creating a phenomenon of internal displacement in which they are totally without protection, since they are not eligible under the relevant conventional standards for the assistance of the Office of the United Nations High Commissioner for Refugees.

4. We should point out that Supreme Decree 07-92-DE of 11 November 1992 states that civil defence groups are organizations that have emerged "spontaneously and freely". This is not so, however, in many instances where there is obvious pressure on peasant communities to form these groups, which are issued with shotguns and which act under the supervision of the security forces.

5. In September 1990, 18 peasants, including women and children, were tortured and afterwards murdered in a joint operation carried out by these groups with the security forces in the town of Ayacucho. The mortal remains of the victims were buried in a common grave in Chillcahuaycco in an obvious attempt to conceal this horrendous crime with impunity. Despite the time that has elapsed, the perpetrators of this massacre have not been punished. The army non-commissioned officer in charge of the operation has been cleared by a military court.

6. In 1991, 174 members of self-defence committees - also known as ronderos - died; this figure increased significantly in 1992 in the course of which 260 deaths were recorded at the hands of Shining Path, frequently in retaliation for the formation of these committees. An example of this is the massacre that occurred in the community of Huayao in Ayacucho, in October 1992, when Shining Path murdered 47 peasants from that community, many of them ronderos, after burning their houses and other possessions. A few days later, Shining Path repeated its action in the neighbouring community of Rumi Rumi, where it murdered 11 ronderos.

7. However, one aspect of the activities of the civil defence forces needs to be underscored, namely, the violence which they bring to bear. In the course of 1992, these groups were responsible for the death of 76 persons, 55 of whom were members of Shining Path, 20 peasants and one a member of a civil defence group. In its most recent report, the Working Group on enforced or involuntary disappearances draws attention to the serious violations of human rights that occur when these groups participate in joint operations with the security forces.

8. Civil self-defence groups have also been implicated in disappearances. In 1991, the Working Group on Enforced or Involuntary Disappearances received nine reports of enforced disappearances attributed to civil defence groups in Peru, and although this offence continues to be perpetrated mainly by members of the security forces, self-defence groups are increasingly involved in its commission. However, as the Working Group points out in its latest report, it has also received a large number of reports concerning the disappearance of peasants as a reprisal by the military authorities for their refusal to join civil defence groups. It is obvious that in such cases the peasants are caught between two fires since, as we have pointed out, Shining Path habitually razes communities that organize self-defence committees and murders their members.

9. We cannot deny that self-defence is an inalienable right of every citizen in the face of aggression, but it must be exercised freely, without coercion of any kind and without putting at risk innocent lives in carrying out tasks which, like the maintenance of public order, the defence of life and the punishment of subversion are obligations and responsibilities of the State. The public at large should cooperate in these tasks but within its spheres of competence; otherwise, the risk is incurred of militarizing society and encouraging these armed self-defence groups to become paramilitary organizations, as occurred in Colombia with regrettable loss of human life.

10. In order to forestall abuses, and particularly the disappearances for which these groups are responsible, there must be compliance with the recommendations made by the Working Group on Enforced or Involuntary Disappearances in its most recent report; inter alia, they clearly state that the sole objective of the activities of civil defence groups must be self-defence and that, consequently, such groups should not participate in operations that would normally be carried out by army units or the police such as combat, search or arrest operations. Another recommendation, highly relevant in the case of Peru, refers to the need for membership of such groups to be genuinely voluntary, avoiding any form of coercion, real or apparent.

11. The issue is unquestionably a complex one since these civil defence groups have played an important role in combating the criminal activities of Shining Path, in the absence or inadequacy of the State apparatus in certain areas. Accordingly, the request made to the Secretary-General, in resolution 1992/57, to submit a report on domestic law and practice relating to civil defence forces and the request made in the same resolution to the special rapporteurs and working groups concerned to "pay due attention within their mandates to the matter of civil defence forces in relation to the protection of human rights and fundamental freedoms" are commendable.

12. We trust that the implementation of these and other recommendations made on the topic by the Working Group on Enforced or Involuntary Disappearances will have positive effects on the human rights situation in those areas where civil defence groups are active. We are also confident that the report to be submitted to this session will contribute to the discussion on an item which, because of its complexity and relevance for human rights, calls for urgent attention.

13. The large-scale displacement of people sparked off by the prevailing violence especially in Colombia and Peru, should also receive urgent attention. Some 30,000 displaced Colombian families have found themselves living on the fringes of various towns in the departments of Meta, Córdova, Putumayo and elsewhere, fleeing extreme violence as well as natural disasters and the acute poverty which these situations engender.

14. A similar situation is to be seen in Peru. According to figures drawn up by human rights organizations, some 60,000 families have fled the areas of conflict, especially the mountainous area in the centre and south of the country as well as the central forest region, where the traditional life-styles of the Ashaninka people have been destroyed, forcing them to live in improvised encampments exposed to epidemics and in conditions of malnutrition. Large numbers of displaced persons have moved to the outskirts of Lima and other towns where they not only live in extremely difficult circumstances but also have to cope with the effects of the collapse of their traditional way of life.

15. In the context of the acute economic crisis affecting Peru, the displaced persons are the poorest of the poor but, in addition, they are particularly vulnerable; since many of them do not have papers, they are habitually subjected to unending abuses and arbitrary detention.

16. Despite the seriousness of the problem, thus far States have not developed any kind of programme to offer protection and humanitarian assistance to these families who are living in conditions of absolute poverty and extreme social vulnerability. The efforts and resources devoted to them by the non-governmental organizations are totally inadequate to cope with a phenomenon of this magnitude. It is imperative therefore, for the international community to establish appropriate legislation, machinery and programmes of protection and assistance, since we are in the presence of an alarming situation of human rights violation which is ignored by the United Nations system as a result of conventional limitations.

17. As long as work on the possible application of the existing international standards on human rights, humanitarian law and refugee law to internally displaced persons is going ahead, it is necessary, as Commission on Human Rights resolution 1992/73 recognizes, to provide them with emergency relief and protection. Until such time as this international protection becomes a reality, the international community must promote, and States must adopt internal measures on behalf of those persons who are displaced within their territories as a result of the conflicts of political violence occurring in them, establishing assistance programmes that bring the living conditions of these families up to minimum humane levels.

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